



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Sentrix Pharmacy and Discount, L.L.C.

Respondent Name

Hartford Casualty Insurance Company

MFDR Tracking Number

M4-16-3314-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

June 28, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The insurance carrier, Hartford Insurance Company, failed to take final action on the claim within the 45-day period set forth in TAC §134.240. Specifically the claim was submitted on 2/16/16 and it was received by the provider on 2/22/16 ... Sentrix resubmitted the bills for reconsideration on 5/17/16 and it was received by the provider on 5/20/16 ... Again, no action was taken on the claim."

Amount in Dispute: \$2,289.71

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The disputed medication was initially denied per extent of injury dispute and peer review.

The disputed medication has been reviewed on a retrospective basis per Texas Rules and Guidelines. The Hartford requested information on two separate occasions per Texas Guidelines.

No response was received from the prescribing doctor, Bruce Wardley, DO after 48 hours for each attempt (total of four days). The Hartford closed the retrospective request for lack of information; therefore, non-certified."

Response Submitted by: The Hartford

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 5, 2016	Pharmacy Services - Compound	\$2,289.71	\$1,737.04

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 sets out the procedures for resolving medical disputes.

2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of a medical bill.
4. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
5. 28 Texas Administrative Code §134.530 sets out the closed formulary requirements for claims not subject to certified networks.
6. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
7. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 75 – Prior authorization required

Issues

1. Did Hartford Casualty Insurance Company (Hartford) raise an extent of injury issue in accordance with 28 Texas Administrative Code §133.307?
2. Did Hartford raise a retrospective medical necessity issue in accordance with 28 Texas Administrative Code §133.307?
3. Is Hartford's denial of payment for lack of preauthorization supported?
4. Is Sentrix Pharmacy and Discount, L.L.C. (Sentrix) eligible for reimbursement of the services in question?

Findings

1. 28 Texas Administrative Code §133.305(b) requires that extent of injury disputes be resolved prior to the submission of a medical fee dispute for the same services. In its position statement, Hartford stated, "The disputed medication was initially denied per extent of injury dispute..."

28 Texas Administrative Code §133.307(d)(2)(F) states, in relevant part, "The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review."

Review of the submitted documentation does not find that Hartford presented extent of injury as a denial reason to Sentrix prior to the date the request for medical fee dispute resolution (MFDR) was filed. The division concludes that this defense presented in Hartford's position statement shall not be considered for review because this assertion constitutes a new defense pursuant to 28 Texas Administrative Code §133.307(d)(2)(F).

2. 28 Texas Administrative Code §133.305(b) requires that medical necessity disputes be resolved prior to the submission of a medical fee dispute for the same services. In its position statement, Hartford stated, "The disputed medication has been reviewed on a retrospective basis ... The Hartford closed the retrospective request for lack of information; therefore, non-certified."

28 Texas Administrative Code §133.307(d)(2)(F) states, in relevant part, "The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review."

Review of the submitted documentation does not find that Hartford presented retrospective medical necessity as a denial reason to Sentrix prior to the date the request for medical fee dispute resolution (MFDR) was filed. The division concludes that this defense presented in Hartford's position statement shall not be considered for review because this assertion constitutes a new defense pursuant to 28 Texas Administrative Code §133.307(d)(2)(F).

3. Sentrix is seeking reimbursement of \$2,289.71 for a compound cream containing Baclofen, Gabapentin, Ketoprofen, Versatile Cream Base, Amantadine, and Amitriptyline dispensed on February 5, 2016. Hartford denied the disputed services with claim adjustment reason code 75 – "PRIOR AUTHORIZATION REQUIRED."

28 Texas Administrative Code §134.500(3) defines the closed formulary as "all Food and Drug Administration (FDA) approved prescription and nonprescription drugs prescribed and dispensed for outpatient use" except those requiring preauthorization. 28 Texas Administrative Code §134.530(b)(1) states:

Preauthorization is only required for:

- (A) drugs identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary*, and any updates;
- (B) any compound that contains a drug identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary*, and any updates; and
- (C) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

The division finds that the ingredients noted in the compound in question are included in the division's closed formulary as the ingredients consist of FDA approved drugs and inactive ingredients and do not include a drug identified with a status of "N" in the current edition of the ODG, *Appendix A*. Hartford failed to raise any other defenses for a preauthorization denial of the disputed compound. Therefore, the division concludes that preauthorization for the services in question did not require preauthorization and Hartford's denial for this reason is not supported.

4. 28 Texas Administrative Code §134.503 applies to the compound in dispute and states, in pertinent part:

- (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
 - (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
 - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or
 - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2). While documentation supports that the ingredients Amantadine and Amitriptyline were part of the compound, Satrix is not seeking reimbursement for these ingredients. Therefore, these ingredients are not eligible for reimbursement. Each ingredient requested is listed below with its corresponding reimbursement amount as applicable.

Ingredient	NDC & Type	Price/ Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amt §134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
Baclofen 4%	38779038808 Generic	\$35.63	9.6 gm	$\$35.63 \times 9.6 \times 1.25 = \427.56	\$342.04	\$342.04
Gabapentin 5%	38779246108 Generic	\$59.85	12 gm	$\$59.85 \times 12 \times 1.25 = \897.75	\$718.20	\$718.20
Ketoprofen 10%	38779007805 Generic	\$10.45	24 gm	$\$10.45 \times 24 \times 1.25 = \313.50	\$250.80	\$250.80
Versatile Cream Base	51552134308 Generic	\$2.50	170.4 gm	$\$2.50 \times 170.4 \times 1.25 = \532.50	\$426.00	\$426.00
Total						\$1,737.04

The total allowable reimbursement for the disputed services is \$1,737.04. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1,737.04.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1,737.04, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	Laurie Garnes	May 12, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.